

REMARKS

Claims 56, 59 - 66, 68 - 72 and 74 - 81 are now pending in this application. Claims 56 and 59 - 66, 68 - 72 and 74 have been amended to more particularly point out and distinctly claim the subject matter of the invention. New claims 75 - 81 have been added. No new matter has been added. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

Claims 60 and 61 currently stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In view of the above amendments, it is respectfully submitted that these claims are now in condition for allowance.

Claims 56, 65, 66, 68, and 69 stand rejected under 35 U.S.C. 102(b) as anticipated by Kipperman (U.S. Patent No. 5,092,839). The Examiner stated, in support of the rejection, that Kipperman discloses in combination all of the elements of the claims rejected. The Examiner additionally noted that the device of Kipperman is fully capable of selective liquid flow therethrough to or from a patient during aspiration and/or irrigation.

Claim 56 has been amended to recite a system for establishing intermittent fluid communication with a patient's bloodstream, comprising (1) a catheter including first and second lumens extending therethrough from a proximal end of the catheter to a distal end thereof, wherein, when in an operative position, the distal end of the catheter resides within a blood vessel of a patient; and (2) a first sealing balloon positionable within a distal end of the first lumen, so that, when inflated, the first balloon seals the distal end of the first lumen to prevent blood flow thereinto; and (3) a deflation mechanism for deflating the first balloon to reopen the first lumen to blood flow thereinto while the distal end of the catheter remains within the blood vessel.

Similarly claim 65 recites “a deflation mechanism for deflating the balloon to reopen the lumen to blood flow therein while the distal end of the catheter remains within the blood vessel.”

It is respectfully submitted that the invention disclosed by Kipperman neither shows nor suggests a deflation mechanism for deflating the first balloon to reopen the first lumen to blood flow therein while the distal end of the catheter remains within the blood vessel as recited in Claim 56 of the Application. On the contrary, the balloon 14 of Kipperman is taught as forming an impassable seal until the catheter is removed from the patient.

The balloon 14 of Kipperman is disclosed as performing a number of functions of traditional coronary thrombectomy and angioplasty procedures, including being extended distally, in a deflated position, out of coronary thrombectomy catheter 11 and into an occluded artery, where it is then inflated in order to widen the opening of the artery 20. Kipperman, Figs. 9 and 10; col 4 lines 40-47. The balloon 14 of Kipperman is also used to dislodge the thrombus 32 from the previously occluded artery and to “shovel” the thrombus 32 into the coronary thrombectomy catheter 11. Kipperman, Figs. 12-14; col 4 lines 52-62. The balloon 14 remains inflated during withdrawal of the device from the blood vessel so that the balloon 14 serves as a plug to prevent the captured thrombus 32 from entering the blood stream. Col. 4, line 63 to col. 5, line 9.

It is therefore respectfully submitted that Kipperman teaches away from a deflation mechanism for deflating the first balloon to reopen the first lumen to blood flow therein while the distal end of the catheter remains within the blood vessel as recited in claims 56 and 65 and that these claims are not anticipated by Kipperman. Because claims 66, 68 and 69 depend from and, therefore, include all of the limitations of claim 65, it is submitted that these claims are also allowable.

Claims 70 - 72 and 74 stand rejected under 35 U.S.C. 103(a) as being

unpatentable over Kipperman (U.S. Patent No. 5,092,839). The Examiner stated, in support of the rejection, that Kipperman discloses a catheter substantially as claimed except for companion ingress and egress side-by-side non-concentric catheter tubes. The Examiner held these limitations to be obvious under *St. Regis Paper Co. v. Bemis Co.*, USPQ 8, which held that mere duplication of essential working parts of a device involves only routine skill in the art.

Claim 70 recites “a deflation mechanism for deflating the balloon to reopen the lumen to blood flow thereinto while the distal end of the catheter remains within the blood vessel.” For the same reasons stated above in regard to claims 56 and 65, it is respectfully submitted that claim 70 is allowable.

Because claims 71, 72 and 74 depend from and include all of the limitations of claim 70, it is submitted that these claims are also allowable.

Claim 59, 62 and 70 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims of U.S. Patent No. 6,364,867 and U.S. Patent No. 6,270,489. In view of the Terminal Disclaimer filed herewith, it is respectfully submitted that this rejection should be withdrawn.

Claims 60, 61 and 63 stand objected to as dependent upon a rejected base claim, but have been deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the amendments to the claims and the above remarks, it is respectfully submitted that these claims are in condition for allowance.

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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